

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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AUG 26 2004

Federal Communication Commission
Bureau / Office

In the matter of

Amendment of Section 73.202 (b)

DOCKET FILE COPY ORIGINAL

FM Table of Allotments

) MM Docket No. 02-212

FM Broadcast Stations.

) RM-10516

(Vinton, Louisiana, Crystal Beach,

) RM-10618

Lumberton, and Winnie, Texas)

To: John A. Karousos
Assistant Chief, Audio Division
Media Bureau

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AUG 30 2004

Federal Communications Commission
Office of the Secretary

MOTION FOR LEAVE TO FILE
STUDY OF "TUCK" REPORTED DECISIONS

1. By Supplement to Petition for Reconsideration filed this date, Charles Crawford is submitting a "Study of Reported Decisions by the FCC Applying the 'Tuck' Precedent to Determine Whether to Grant or Deny a 'First Local Service Status' in FM Allotment Rulemaking Proceedings" dated August 2004, Volumes I and II.

2. In the pleadings before the Bureau, there are arguments pro and con about the "Tuck" formula applied in FM allotment proceedings to determine whether to credit a given allotment proposal as a first local broadcast service for the designated community. For purposes of the contending parties as well as the Commission's staff, the study should be a useful resource to aid in the agency's decision and in future briefing of that decision.

3. For example, the study reflects that application of the Tuck formula almost invariably results in a determination that a first local service status should be awarded, regardless of the widely varying facts and circumstances in the cases. Also, generally the setting of the cases is a proposed allotment (or

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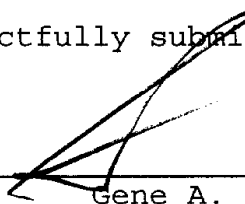
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reallotment) for a relatively small community that would be located close (or closer) to a nearby Urbanized Area/radio market while claiming 307(b) status as an independent first local station in its designated community. There do not appear to be cases in which an established major market broadcaster proposes to become a first local outlet, in order to acquire such 307(b) status, for one of the many relatively small communities within its existing service area.

4. Given what appears to be the normal processing time for staff consideration of contested petitions for reconsideration of this nature, receipt of the "Tuck" study at this juncture should not materially delay the timetable in this litigation. There is no material prejudice to the parties; the study merely assists any and all concerned in reviewing, citing and dealing with applicable precedent.

5. Accordingly, the public interest is served by granting leave to file the Tuck study.

Respectfully submitted,



Gene A. Bechtel

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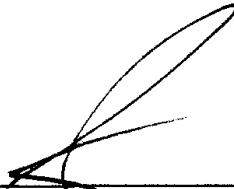
August 26, 2004

CERTIFICATE OF SERVICE

I certify that on this 26th day of August, 2004, I have caused copies of the foregoing MOTION FOR LEAVE TO FILE STUDY OF "TUCK" REPORTED DECISIONS to be placed in the United States mails, first class, postage prepaid, to the following counsel for Tichenor License Corporation:

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A handwritten signature in black ink, appearing to read 'Gene A. Bechtel', is written over a horizontal line.

Gene A. Bechtel